

Panaji, 21st September, 1978 (Bhadra 30, 1900)

SERIES I No. 25

# OFFICIAL GAZETTE

## GOVERNMENT OF GOA, DAMAN AND DIU

### GOVERNMENT OF GOA, DAMAN AND DIU

Department of Personnel and Administrative Reforms

#### Addendum

31-6-78-Div. I

The following is added to the Notification No. 1-26(i)/76-Div. I dated 1-1-1978 published in Official Gazette No. 46 Series I dated 16-2-1978 after para 6 — "7. these rules will not be applicable to the posts in the Motor Transport and Wireless Branches and to them the rules published in Official Gazette No. 28 Series I, dated 30-10-1966 will be applicable".

By order and in the name of the Administrator of Goa, Daman and Diu.

V. J. Menezes, Under Secretary (Personnel).

Panaji, 19th September, 1978.

### Legislative Assembly of Goa, Daman and Diu

#### Legislature Department

LA/B/7/1648/78

The following Bill which was introduced in the Legislative Assembly of Goa, Daman and Diu on 14th September, 1978 is hereby published for general information in pursuance of the provisions of Rule 136 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa, Daman and Diu (Extension of the Indian Easements Act) Bill, 1978

(Bill No. 17 of 1978)

A

#### BILL

*to provide for the extension of the Indian Easements Act, 1882 to the Union territory of Goa, Daman and Diu.*

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Twenty-ninth Year of the Republic of India as follows: —

1. *Short title, extent and commencement.* — (1) This Act may be called the Goa, Daman and Diu (Extension of the Indian Easements Act) Act, 1978.

(2) It extends to the whole of the Union territory of Goa, Daman and Diu.

(3) It shall come into force on such date as the Government may by notification in the Official Gazette, appoint.

2. *Definitions.* — In this Act, unless there is anything repugnant in the subject or context, —

- (a) 'Government' means the Government of Goa, Daman and Diu;
- (b) 'Notification' means a notification published in the Official Gazette;
- (c) 'Official Gazette' means the Goa, Daman and Diu Government Gazette.

3. *Extension of Indian Easements Act, 1882 (Central Act 5 of 1882).* — As from the commencement of this Act, the Indian Easements Act, 1882 (hereinafter referred to as the "said Act") shall extend to and be in force in the Union territory of Goa, Daman and Diu (hereinafter referred to as the 'said territory') subject to the modification that in section 1 thereof, for the words "territories respectively administered by the Governor of Madras in Council and the Chief Commissioners of the Central Provinces and Coorg;" the words "whole of the Union territory of Goa, Daman and Diu" shall be substituted.

4. *Repeal and saving.* — On and from the date on which the provisions of the said Act come into force in the said territory, articles 2309, 2311, 2312, 2313 and article 2314 of the Portuguese Civil Code and any other law in force in the said territory corresponding to any of the provisions of the said Act shall stand repealed:

Provided that the repeal shall not affect —

- (a) the previous operation of the provisions so repealed or anything duly done or suffered thereunder,
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under the provisions so repealed,
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the provisions so repealed, or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and any such investigation, legal proceedings or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the said provisions had not been repealed:

Provided further that, subject to the preceding proviso, anything done or any action taken (including any appointment made, notification issued or rule framed) under the provisions so repealed shall be deemed to have been done or taken under the corresponding provisions of the said Act as amended by this Act and now extended to the said territory and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under the said Act as amended by this Act.

#### Statement of Objects and Reasons

Soon after the liberation of this Union territory of Goa, Daman and Diu various Central Acts have been extended to this Union territory of Goa, Daman and Diu including the Civil Procedure Code, 1908, the Transfer of Property Act, 1882, the Indian Evidence Act, 1872, the Specific Relief Act, 1963 etc. However, law regarding easements, namely, the Indian Easements Act, 1882 has not been extended to this Union territory so far and the Portuguese law namely Articles 2309, 2311 to 2314 of Portuguese Civil Code regarding easements are still in force. As the aforesaid Portuguese Law is not elaborate so as to meet all the eventualities as contemplated under the Easements Act, 1882, it has been desired to replace the existing Portuguese legislation by the said Act, 1882. The Bill seeks to remove disparity by extending the Indian Easements Act, 1882 to this Union territory of Goa, Daman and Diu.

#### Financial Memorandum

No financial implications are involved in this Bill.

#### Memorandum on Delegated Legislation

No delegated legislation is contemplated in this Bill.

Panaji,  
4th September, 1978.

SHANKAR LAAD  
Minister for Law

Assembly Hall,  
Panaji,  
8th September, 1978.

M. M. NAIK  
Secretary to the Legislative  
Assembly of Goa, Daman and Diu.

#### (Annexure to Bill No. 17 of 1978)

The Goa, Daman and Diu (Extension of the Indian Easements Act) Bill, 1978

The Indian Easements Act, 1882  
(Central Act No. 5 of 1882)

1. *Short title.*—The Act may be called The Indian Easements Act, 1882.

#### Local Extent.

It extends to the territories respectively administered by the Governor of Madras in Council and the Chief Commissioners of the Central Provinces and Coorg;

#### Commencement.

and it shall come into force on the first day of July, 1882.

Assembly Hall,  
Panaji,  
8th September, 1978.

M. M. NAIK  
Secretary to the Legislative  
Assembly of Goa, Daman and Diu.

LA/B/7/1660/78

The following Bill which was introduced in the Legislative Assembly of Goa, Daman and Diu on 15th September, 1978 is hereby published for general information in pursuance of the provisions of Rule 136 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

### The Goa, Daman and Diu Agricultural Tenancy (Amendment) Bill, 1978

(Bill No. 18 of 1978)

#### A BILL

further to amend the Goa, Daman and Diu Agricultural Tenancy Act, 1964.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Twenty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Goa, Daman and Diu Agricultural Tenancy (Amendment) Act, 1978.

(2) It shall come into force on such date as the Government may by notification in the Official Gazette, appoint, and different dates may be appointed for different areas and for different provisions of this Act.

2. *Amendment of section 2.*—In section 2 of the Goa, Daman and Diu Agricultural Tenancy Act, 1964 (7 of 1964) (hereinafter referred to as the principal Act), after clause (12), the following new clause shall be inserted, namely:—

“(12A) ‘small landlord’ means a person from whom a tenant holds land on lease and who owns not more than half hectare of land used for agriculture.”

3. *Amendment of section 18A.*—In section 18A of the principal Act in sub-section (5), for clause (a), the following clause shall be substituted, namely:—

“(a) the tenant-purchaser shall be liable to pay to the former landlord,—

(i) the purchase price; and

(ii) an amount equal to the rent of the land yearly, for the use and occupation of the land, until the purchase price is determined under section 18C;”

4. *Amendment of section 18D.*—In section 18D of the principal Act, in sub-section (1), for the expression “whichever is lower”, the expression “or two hundred times the Land Revenue (Predial e Imposto Complementar) levied for the year 1976, whichever is greater.” shall be substituted.

5. *Amendment of section 38.*—In section 38 of the principal Act after sub-section (4), the following sub-section shall be added, namely:—

“(5) Nothing in sub-section (4) shall prevent a tenant or owner in possession of khajan land from retaining, blocking or stagnating water in such land during the period from 15th November to 1st April, for the purpose of catching or breeding fish.”

6. *Amendment of section 56.* — In sub-section (1) of section 56 of the principal Act, after the expression "service to the public", the expression "or lands belonging to small landlords" shall be inserted.

#### Statement of objects and reasons

The Bill proposes to amend certain provisions of the Goa, Daman and Diu Agricultural Tenancy Act, 1964. The small land lords are put to great hardship especially after the enactment of the fifth amendment to the Agricultural Tenancy Act and it is felt expedient to exempt them from the provisions of the Act. The Bill accordingly amend section 56 and attempts to define small landlords to include those who owns not more than half hectare of land used for agriculture.

Under Section 18D of the Act, the landlords are entitled as compensation from tenant purchaser, the purchase price determined under the said section. But the purchase price is not yet determined and with the result the landlords are deprived both the price of the land as well as the rent. It is therefore felt necessary to incorporate a provision requiring the tenant to pay rent annually until the purchase price is determined. So also the compensation prescribed in section 18D was on the basis of Paddy Procurement which was Rs. 56 to 58 at the time of enactment of the said provision. At present the paddy procurement is shot up to Rs. 77/- and the paddy yield per hectare has also gone up from 20 to 33 quintals. It is therefore proposed to prescribe the compensation in terms of assessment of Land Revenue as provided in similar legislations of neighbouring States.

With a view to encourage the fishing activities which is one of the main occupations of the common masses and to strengthen the economic condition of the Agriculturists, a new sub-section is proposed to be incorporated in section 38 in order to permit breeding catching of fish in Khazan lands by stagnating water during non-cultivable season.

#### Financial Memorandum

No Financial implications are involved in this Bill.

Panaji,  
31st August, 1978.

F. C. SARDINHA  
M.L.A.

Assembly Hall,  
Panaji,  
11th September, 1978.

M. M. NAIK  
Secretary to the Legislative Assembly  
of Goa, Daman and Diu.

(Annexure to Bill No. 18 of 1978)

The Goa, Daman and Diu Agricultural Tenancy (Amendment) Bill, 1978

The Goa, Daman and Diu Agricultural Tenancy Act, 1964  
(Act No. 7 of 1964)

18A(5) In respect of the land deemed to have been purchased by a tenant under sub-section (1), —

(a) the tenant-purchaser shall be liable to pay to the former landlord the purchase price; and

(b) the tenant-purchaser shall be liable to pay to the Government, the dues, if any, from the tillers' day.

18D. *Purchase price payable to the landlords.* — (1) The purchase price payable by a tenant to the landlord in relation to the land which has been deemed to have been purchased by the tenant under section 18A shall be an amount equivalent to fifteen times the net average annual income of the land for the three years immediately preceding the tillers' day or the amount indicated in column 2 of the Table below in respect of the categories of land specified in the corresponding entry in column 1 thereof, whichever is lower.

TABLE

Category of land	Purchase price (in rupees) per hectare
1	2
Garden consisting primarily of:	
a) Coconut trees ... ..	4,000
b) Arecanut trees ... ..	3,000
c) Mango trees ... ..	2,500
d) Cashew trees ... ..	1,600
Rice land:	
a) Kher ... ..	4,000
b) Khazan ... ..	3,600
c) Morod ... ..	1,600
Wet land where sugarcane is cultivated ... ..	2,500

(2) For the purposes of determining the net average annual income of a land for the three years immediately preceding the tillers' day, the Mamlatdar shall take into account the cost of the seeds, fertilisers, labour involved and such other matters as may be prescribed.

38. *Tenant's right to operate sluice gates.* — (1) Where, for the purpose of regulating supply of water or for irrigation of any land, there is any sluice gate or other such contrivance, the right to operate and the duty and responsibility of maintaining such sluice gate or other contrivance, as also the right to the fisheries, if any, in the vicinity thereof, shall be that of the tenant, notwithstanding any other law, custom, usage, agreement or contract, decree or order of any court to the contrary.

(2) Where immediately before the commencement of this Act, any such right as is referred to in sub-section (1) vested in the landlord or any other person, other than the Government, the tenant shall be liable to pay to the landlord or other person, by way of rent for the exercise of the right conferred under that sub-section, a sum of money to be fixed by the Tribunal in accordance with such principles as may be prescribed.

(3) The rights conferred on a tenant under sub-section (1) shall where there are more tenants than one who derive benefit from the same sluice gate or other such contrivance, be exercised by all the tenants jointly in accordance with such principles as may be prescribed.

(4) Nothing in sub-section (1) shall be deemed to confer on the tenant any right to any fisheries or other property in the ownership or possession of Government or to authorise him to block or stagnate water for the purpose of catching or breeding fish, in any land land used for agriculture.

56. *Exemption.* — (1) The provisions of this Act shall not apply to lands leased or held by the Government or lands granted to or for the benefit of any individual specifically for rendering any service to any religious, educational or charitable institution or for any other specific service to the public or lands vested in the Custodian under the Goa, Daman and Diu Administration of Evacuee Property Act, 1964.

Assembly Hall,

M. M. NAIK

Panaji,

Secretary to the Legislative

11th September, 1978.

Assembly of Goa, Daman and Diu.

LA/B/7/1847/78

The following Bill which was introduced in the Legislative Assembly of Goa, Daman and Diu on 13th September, 1978 is hereby published for general

information in pursuance of the provisions of Rule 136 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa, Daman and Diu Municipalities  
(Fourth Amendment) Bill, 1978  
(Bill No. 19 of 1978)

A  
BILL

*further to amend the provisions of the Goa, Daman and Diu Municipalities Act, 1968.*

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Twenty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (i) This Act may be called the Goa, Daman and Diu Municipalities (Fourth Amendment) Act, 1978.

(ii) It shall come into force at once.

2. *Amendment of section 2.*— In section 2 of the Goa, Daman and Diu Municipalities Act, 1968, (Act No. 7 of 1969) (hereinafter called as the Principal Act), in clause (33), for the words “appointed by the Council”, the words “appointed by the Government or the Council” shall be substituted.

3. *Amendment of section 72.*— In section 72 of the Principal Act, in sub-section (4), for the words “the Council”, the words “the Government” shall be substituted.

*Statement of objects and reasons*

In pursuance of sub-section (4) of Section 72 of the Goa, Daman and Diu Municipalities Act, 1968, subject to the provisions of sub-sections (5) and (6), the powers of making appointment of certain officers such as the Chief Officers, a Municipal Engineer etc. as specified in sub-sections (1) and (2) of the said Section, are vested in the Council. However difficulties have been experienced while appointing or transferring such officers to various Municipalities. The Bill seeks to amend section 72 of the said Act, 1968, thereby giving power to Government with respect to appointments of various officers specified under sub-sections (1) and (2) of section 72 of the Act.

*Financial Memorandum*

No financial implications are involved in the Bill.

Panaji SHANKAR LAAD  
9th September, 1978 Minister for Urban Development

Assembly Hall, M. M. NAIK  
Panaji, Secretary to the Legislative Assembly  
11th September, 1978 of Goa, Daman and Diu

(Annexure to Bill No. 19 of 1978)

The Goa, Daman and Diu Municipalities (Fourth Amendment) Bill, 1978

The Goa, Daman and Diu Municipalities Act, 1968  
(Act No. 7 of 1969)

2(33). “officer or servant of the Council” means an officer or servant appointed by the Council or any other competent authority subordinate to it, and includes any Government Officer or servant who is for the time being serving under the Council;

72. *Appointment of Chief Officer, Engineer, Water Works Engineer, Health Officer, Auditor and certain other officers.*—  
(1) There shall be a Chief Officer for every Council.

(2) A Council may, with the sanction of the Director, and if so required by the Government, shall, create all or any of the following posts, namely:—

- (i) a Municipal Engineer;
- (ii) a Water Works Engineer;
- (iii) a Municipal Health Officer;
- (iv) a Municipal Auditor;
- (v) a Municipal Education Officer;
- (vi) any other Officer as may be designated by the Government in this behalf.

(3) The qualifications, pay, allowances and other conditions of service and the method of recruitment of the officers specified in sub-sections (1) and (2) shall be regulated by rules made by the Government in this behalf.

(4) Subject to the provisions of sub-sections (5) and (6), the power of making appointment to the posts specified in sub-sections (1) and (2) shall vest in the Council.

(5) Notwithstanding anything contained in this Act, the Government may, by notification in the Official Gazette, constitute, in respect of all Councils, —

(a) a common cadre of the Chief Officers,

(b) common cadres of all or any of the officers specified in sub-section (2), whose minimum salary (exclusive of allowances) is not less than Rs. 225/- per month.

(6) On the issue of a notification under sub-section (5), the Government shall have power to make rules to regulate the qualifications, pay, allowances and other conditions of service and the method of recruitment of officers belonging to the cadres thereby constituted, including the manner of and the terms and conditions under which existing officers shall be absorbed into; and such rules may vest jurisdiction in respect of all or any of such matters in relation to such cadres in the Government or in such other authority or authorities as may be prescribed.

(7) If any common cadres are constituted under sub-section (5), each Council shall every year contribute out of its revenue such sum on account of its share of the expenditure on any officers belonging thereto posted to serve under it incurred or to be incurred in that year for its purposes, as the Government may by general or special order determine.

Assembly Hall, M. M. NAIK  
Panaji, Secretary to the Legislative Assembly  
11th September, 1978. of Goa, Daman and Diu.